

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LESLIE J. LEVINE, *solely in his capacity as trustee of*
the Marvin H. Schein Descendants' Trust,

Plaintiff,

-v-

MICHAEL D. BROWN,

Defendant.

15-CV-1738 (JMF)

ORDER

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JESSE M. FURMAN, United States District Judge:

In light of the parties' letters dated January 3 and January 6, 2020, ECF Nos. 51-53, the evidentiary hearing scheduled for January 31, 2020, and the pre-hearing discovery and submission deadlines are CANCELLED. *See* ECF No. 35.

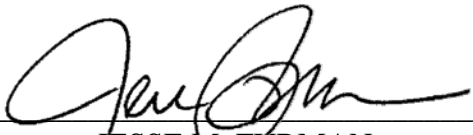
In his letter, Defendant advised the Court of a 2012 Notice of Federal Tax Lien against Defendant and Mary M. Brown. *See* ECF No. 51-1. It is not clear that this notice has any bearing on whether the Court can or should grant the requested turnover order. *See Bricklayers Ins. & Welfare Fund v. LaSala*, No. 12-CV-2314 (FB), 2018 WL 7053375, at *3 (E.D.N.Y. Nov. 15, 2018) (“[S]ection 5225 of the CPLR does not require that the judgment creditor give notice to adverse claimants such as other judgment creditors or lienholders, nor that the court determine the priorities of such competing interests. In the absence of any objection by the IRS, the federal tax lien with respect to Kenneth LaSala, Sr. (or any other defendant) does not preclude the Court from ordering a turnover of assets.” (citations omitted)); *Ne. Heating Cooling Refrigeration Co. v. Potter*, 977 N.Y.S.2d 668, at *1 (N.Y. Sup. Ct. 2013) (describing Section 5225 as creating a “race of diligence” among interest-holders (internal quotation marks omitted)). Nevertheless, by **January 20, 2020**, the parties shall each submit supplemental briefing, not to exceed seven

pages, addressing (1) the effect, if any, of the notice on these proceedings and the requested relief; (2) any issues remaining as to the “validity of the purported assignment from Mr. Levine to MHS,” *see* ECF No. 29, at 1 n.1, including whether the assignment’s validity is a jurisdictional issue; and (3) any other issues the parties wish to raise.

Finally, the Temporary Restraining Order signed by the Court on December 11, 2019, is hereby EXTENDED and will remain in effect unless and until the Court resolves the pending application for a turnover order. *See* ECF Nos. 35 & 24.

SO ORDERED.

Dated: January 6, 2020
New York, New York



JESSE M. FURMAN
United States District Judge